

# TRANSMITTAL FORM

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Total Number of Pages in This Submission

Application Number 09/363,234

Filing Date July 27, 1999

First Named Inventor Douglas E. Ott

Art Unit 3763

Examiner Name M. Mendez

Attorney Docket Number 1-15369

## ENCLOSURES (Check all that apply)

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| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br><br>Return Postcard |
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Remarks

Response to Request for Clarification including claims; 3-month Extension of Time & Fee

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name MARSHALL & MELHORN, LLC

Signature

Printed name

D. Edward Dolgorukov

Date

November 14, 2006

Reg. No.

26,266

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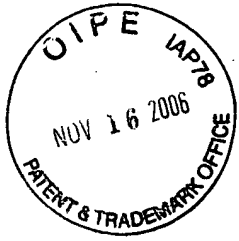
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11-14-06

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Roberta A. Winzeler  
(Name)

Roberta A. Winzeler  
(Signature)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Douglas E. Ott, et al.	)	Group Art Unit: 3763
	)	
Serial No.: 09/363,234	)	Examiner: M. Mendez
Filed: July 27, 1999	)	
	)	
For: METHOD AND APPARATUS	)	
FOR TREATING GAS FOR	)	Attorney Docket: 1-15369
DELIVERY TO AN ANIMAL	)	

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RESPONSE TO REQUEST FOR CLARIFICATION

Honorable Sir:

The Examiner in the Official Action of July 18, 2006 held that the reply filed on April 11, 2006 was not fully responsive to the prior Office Actions because the term "laparoscopic insufflator" was not defined in clear, concise and exact terms leading in the Examiner's opinion to a person of ordinary skill in the art having a choice of several different insufflators which would have structural variations depending on the source of the definition.

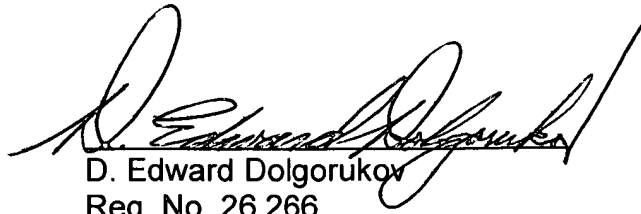
A period of 30 days was given to respond, with extensions available under 37 CFR 1.136(a). The fee for a three-month extension of time to reply, up to, and including, November 18, 2006 accompanies the present response.

Applicants submit that if the specification disclosed several types of hammers, they would likely have structural variations as well, but they would still be hammers. As illustrated by the evidence previously presented, a laparoscopic insufflator is simply a device that controls the flow of gas to the abdomen during laparoscopic surgery. The specification further provides that insufflators may have controls for pressure and volumetric flow rate (see at least page 8, lines 25-26). Such controls are typical of laparoscopic insufflators.

Applicants have attached a copy of claims allowed with respect to a European Counterpart to 5,411,474, where the European Patent Office has determined, after oral proceedings, that a claim including a limitation to an insufflator and a laparoscopic procedure is patentable. This term is easily understood by persons of ordinary skill in the art, as demonstrated by the decision of the EPO.

Applicants courteously submit that the requirements of 35 USC §112 have been fully met. It has been held that a claim is not indefinite "if meaning of claim is discernable, claim is sufficiently clear to avoid invalidity on indefiniteness grounds, even if interpreting claim is difficult, and construction is one over which reasonable persons could disagree. *Bancorp Services LLC v. Hartford Life Insurance Co.*, 69 USPQ 2d 1996 (CA FC 2004). Under the above test, the claims are not indefinite no matter which laparoscopic insufflator would be used by one skilled in the art.

Respectfully submitted,



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